90-788

No.

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

October Term 1990

EDWARD HALAS ,
Petitioner,

V.

Department of Energy,
Respondent.

CASE 90-5118

PETITION FOR A WRIT OF CERTIORARI TO U.S. COURT OF APPEALS TO THE FEDERAL CIRCUIT

Edward Halas,
Petititoner
P.O. Box 2682
Detroit, MI 48231

QUESTION PRESENTED

Whether with the implied admission of wilfull patent infringement by the U.S. Department of Energy is not sufficient to conclude the case and award triple damages to the Inventor-Petitioner by summary judgement. The infringer is the U.S. Department of Energy and has for a lengthy period of time resisted the payment of royalties through evasiveness and stalling techniques. Since both infringment and damages were presented to the Court and with the implied admission of infringment the case was over. Typically the defence continued to stall and delayed the proceedings by bringing in the Army, who has neither interest or jurisidiction in the matter. There would be no precedent to offset the intended willful infringment, and the Court of Appeals for the Federal Circuit could certainly not set that kind of a precedent that would defeat the purpose of obtaining patents.

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IN THE
SUPREME COURT OF THE UNITED STATES

No.

EDWARD HALAS,
Petititoner

v.

DEPARTMENT OF ENERGY,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

The Petititoner, Edward Halas, prays that a writ of certiorari issue to review the judgement of the U.S. Court of Appeals, for the Federal Circuit.

ORDERS CITED BELOW

1. The order of Judge Bohdan A. Futely of the United States Claims Court is in Appendix "A" pages 11.

2. The order of Judges Michel, Cowen and Skelton of the United States Court of Appelas for the Federal Circuit is Appendix "B" pages 12, 13 .

JURISDICTION

The final order for the United States Court of Appeals for the Federal Circuit was dated 27 August 1990. This petition for Certiorari was filed within the ninety (90) days period allowed within the rules of the Court.

CONSTITUTIONAL PROVI SION CITED

The United States Constitution, Ammendment Four .:

Cites: the right of the people to be secure in their persons, house, papers and effects, against unreasonable search and seizure.

STATEMENT OF THE CASE

1. The U.S. Department of Energy infringed upon Petitioner's Patent rights for U.S. Patent number 3,521,091 issued on July 21, 1970.

Essentially the patent relates to Super-conducting generator .

3. The sole owner of the Patent with no rights licensed or issued to anyone is completely Edward Halas.

4. Essentially both the U.S Claims Court and the United States Court of Appeals for the Federal Circuit have admitted that infringment did take place by the Department of Energy, while somewhat gagging on the exact words and being circumvent.

5. The reason for the difficulty the Courts face is that triple damages amount to fifteen million dollars, and this is a litte difficult to digest in the Court System.

6. The rights of the Petitioner are

Petitioner are supposedly guaranteed by the fourth ammendment against unreasonable search and seizure. Firstly the Patent was misappropriated without reasonable cause other than ambition within the U.S. Government and avoiding the payments of royalties to the inventor. This was to continue for years.

7. Judge Futely didn'thave any legal grounds for any rights investigation and did not cite his authority for doing so. There was no consent by the Plaintiff to participate in any farce of this type. There is good substantial reason for the wisdom of the fourth ammendment to guard against harrassment, slander, intimidation, personal injury , just to name a few.

8. The implied admission by the United States Court of Claims for the Federal Circuit is that infringment did take place, also that there was the risk of further injury of an unspecified type to the Petitioner by illegal proceedures authorized by Judge

FUTELY.

9. There was error by the United States Court of Appeals for the Federal Circuit.

REASONS RELIED UPON FOR ALLOWANCE OF THE WRIT

There is a very clear violation of the Petitoner's Fourth ammendment rights in that his patent was seized without payment and an illegal search was authorized by Judge Futely, certainly the Court of Appeals was aware of it and may have permited their natural reluctance to pay royalties overcome their better judgement.

Judge Futely had absolutely no good reason or statute in law to permit further intrusion into the Petitioner's rights. While the Courts are overcome by amount of damages already owing, they should also be congnizant of the necessity of preventing further damages that would add to the owerall payments . Too much enthusiasm always leads to further injury to the Petitioner by an unbridled Govern-

ment attorney. Too often the Government Attorney is regarded as some type of a Robin-Hood working in the public interest that is free to choose his rocks and aim them without any discretion or concern for the permanent injury to the Petitioner. No amount of money can much compensate or justify an unwarranted destruction of a personal and property rights of an idividual. Yet that is the circumstance here.

ARGUMENT

THERE WAS SEIZURE WITHOUT PAYMENT OR AUTHORIZATION OF THE Petitioner's PATENT RIGHTS . THERE WAS AN ORDER BY JUDGE FUTELY TO INVADE THE PETITONER'S PRIVATE RIGHTS AS WELL AND A CONSENT BY THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT. ESSENTIALLY THE DEPARTMENT OF ENERGY WILFULLY AND INTENTIONALLY INFRINGED UPON THE PETITONER'S PATENT RIGHTS FEELING SECURE THAT THEY WOULD BE ABLE TO LEGALLY CHEAT THE INVENTOR OF HIS RIGHTS BOTH INVENTION AND PESONAL. THE LEGALITY IS VERY MUCH IN ISSUE AS IS THE INTEGRITY AND ETHICS OF THE MATTER.

1. The Superconducting Generator Patent is the Petitoner's property which is entitled to be compensated by triple damages in the amount of fifteen million dollars. Further

the life of the patent should be extended for an additional seventeen years because the U.S. Department of Energy was the main culprit and has destroyed confidence in the Patent system.

2. Each step of the patent is surrounded with hazzards of every conceivable type including great personal and financial sacrifice. How much easier is it to do it the Department of Energy way , simply to cheat an inventor of all his rights before a friendly Court system that appears blind and oblivious to the continuing destruction of individual Constitutional property and personal rights.

3. The facts in this case are blatant and illustrate why this country is losing the initiative in making the great inventions that contribute to a great country in the making. If a person can expect to be cheated out of his discoveries by his Country, why bother exerting yourself through the human miseries that these inventions are associated with.

CONCLUSION

For the reason of total violation of fourth ammendment rights, this petition for Certiorari Writ should be granted. Too often we take our rights foregranted, sometimes even forgetting that it takes a constant vigil to assure that those important things that made this country what it both was and still continues to be. Those rights were never frivolous to begin with, nor were they ever intended to be abused and the Petitioner wears those rights with dignity and humility. In cases where the public at large loses an important issue to the Government Attorney, there is a whimper that the Court hears often and becomes accustomed to hearing; but when the Government Attorney loses an issue, there is only a whisper.

Respectfully,

Edward Halas

Edward Halas, Petitioner
P.O. Box 2682
Detroit, MI 48231.

APPENDIX "A"

IN THE UNITED STATES CLAIMS COURT

No. 572-88C
(Filed June 6, 1990)

ORDER

Pursuant to the defendant's status report filed May 15, 1990, the following is hereby ordered:

1. The above entitled case is hereby suspended until October 15, 1990, inorder to permit the Army to continue and if possible, conclude their patent rights determination.

2. A joint status report shall be filed by October 26, 1990 , concerning further proceedings.

IT IS SO ORDERED.

BOHDAN A, FUTELY,
JUDGE.

APPENDIX "B"

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

No. 90-5118

ORDER

Before MICHEL, Circuit Judge, Cowen and Skelton, Senior Circuit Judges.

ORDER

In response to the court's July 24, 1990 order to show case why Edward Halas' appeal should not be dismissed, Halas opposes dismissal and the United States urges dismissal.

Halas filed suit in the Claims Court seeking compensation from the United States for the alleged unauthorized use of his patented invention. The United States moved to stay the Claims Court proceedings and to remand to the Department of the Army to permit the Army to conduct a patent rights determination. On October 13, 1989, the Claims Court suspended proceedings until April 16, 1990 to permit the Army to conduct proceedings. On June 6, 1990, the Claims Court continued the

stay until October 5, 1990. Halas appealed the June 6, 1990 orders.

The June 6 orders are not final or appealable. In CAbot v. United States, 788 F. 2.d. 1539, 1542 (Fed. Cir. 1986), we determined that an order of a trial court remanding a matter to an agency for further findings or proceedings is not final.

Accordingly,

IT IS ORDERED:

Halas appeal is dismissed.

For the Court

Paul R. Michel
Circuit Judge.

Issued as a Mandate: August 27, 1990.